

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:13-cv-00131-MR-DLH**

ANDRE DUBOIS,

Plaintiff,

vs.

**HENDERSON COUNTY BOARD
OF EDUCATION, d/b/a HENDERSON
COUNTY PUBLIC SCHOOLS, and
STEPHEN PAGE, individually and
officially,**

Defendants.

ORDER

THIS MATTER is before the Court on the Defendants' Motion to Dismiss [Doc. 12] and the Magistrate Judge's Memorandum and Recommendation [Doc. 19] regarding the disposition of that motion.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the motion to dismiss and to submit a recommendation for its disposition.

On January 6, 2014, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed conclusions of law in support of a recommendation regarding the Defendants' Motion. [Doc. 19]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

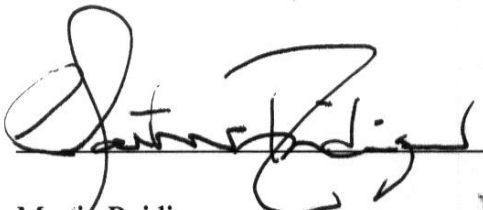
After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendants' Motion to Dismiss should be granted in part and denied in part.

ORDER

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation [Doc. 19] is **ACCEPTED**, and the Defendants' Motion to Dismiss [Doc. 12] is **GRANTED IN PART** and **DENIED IN PART** as follows:

- (1) The Defendants' Motion is **GRANTED** with respect to Plaintiff's § 1983 claim asserted against Defendant Page in his official capacity; Plaintiff's state law claims asserted against Defendant Henderson County Board of Education; and Plaintiff's negligence claim asserted against Defendant Page in his individual capacity, and these claims are hereby **DISMISSED**;
- (2) The Defendants' Motion to Dismiss is **DENIED** with respect to Plaintiff's remaining claims.

IT IS FURTHER ORDERED that the Defendants shall file an Answer to the Plaintiff's Complaint within fourteen (14) days of the entry of this Order.


Martin Reidinger
United States District Judge

